



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,859	01/28/2004	Kevin Stamp	7095MH-1	2989
22442	7590	12/28/2007		
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			EXAMINER GRAY, PHILLIP A	
			ART UNIT 3767	PAPER NUMBER
			MAIL DATE 12/28/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/767,859

Applicant(s)

STAMP, KEVIN

Examiner

Phillip Gray

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26, 28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 28-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/9/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to applicant's communication of 10/5/2007.

Currently claims 1-26, and 28-29 are pending and stand rejected.

Response to Arguments

Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-26, and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landau (U.S. Patent Number 7,156,823) in view of Gasaway et al. (U.S. 5,024,656)

Landau '823 patent discloses a gas-powered single-use needle-less hypodermic jet injection apparatus and method. Landau discloses an outer housing (85) having a nozzle (40), an inner housing (60/72) located within the outer housing, a piston and ram (36) to drive the medicament, a pierceable gas cylinder (72/66) to drive the piston and ram, and a cooperating guide means of the inner housing and outer housing (80). Further Landau discloses that axial movement of the inner housing, guided by the cooperating guide means, enables a desired dose of medicament to be drawn into the nozzle ready for injection, wherein the desired dose can be an amount selected by a user from within a range of doses (see paragraphs beginning at column 4 line 1)

Landau discloses a visible dosage scale indicator that is a flexible indexer tab (84), a helical groove with pits and discrete tapered teeth (near 80), and vertical walled endstop for stopping indexer tab (end of 62), and a fixed locking retainer sleeve with a plurality of retention elements to engage the gas cylinder (72) in two positions for engagement and prevent movement (see figures 1-10). Further, Landau discloses a gas cylinder pierceable by a piercing means (68) within the inner housing, forward biased by a spring (102), further with a seat intermediate the cylinder (on 62), fixed inner member retainer sleeve (64).

Landau '823 discloses the claimed invention except for the medicament drawn into said nozzle through said nozzle outlet. Gasaway teaches that it is known to

use medicament drawn into said nozzle through said nozzle outlet as set forth in paragraphs beginning at column 13 line 6 through column 14 line 66 to provide an efficient and simple intake and injection means and allow for supplying medicament from a vial. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device as taught by Landau '823 with medicament drawn into said nozzle through said nozzle outlet as taught by Gasaway, since such a modification would provide the device with medicament drawn into said nozzle through said nozzle outlet for providing an efficient and simple intake and injection means and allow for supplying medicament from a vial.

Claims 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landau '823 in view of Gasaway in further view of Landau (U.S. Patent Application Number 2003/0093030). Landau '823 discloses the claimed invention except for the locking sleeve, fingered collet and button to control the cylinder movement. Landau '030 teaches that it is known to use the locking sleeve, fingered collet and button to control the cylinder movement, (as set forth in paragraphs from 18-32 and figures 1-4, 9-10), to prevent unwanted cylinder movement and provide a stable gas delivery. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the needle free injection device as taught by Landau '823 with the locking sleeve, fingered collet and button to control the cylinder movement as taught by Landau '030, since such a modification would provide the needle free injection device with the locking sleeve, fingered collet and button to control the cylinder movement prevent unwanted cylinder movement and provide a stable gas delivery.

Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landau '823 in view of Gasaway in further view of Landau et al. (U.S. Patent Number 6,752,781). Landau '823 discloses the claimed invention except for the ram connected by frangible knuckle joints to the inner housing. Landau '781 teaches that it is known to use ram connected by frangible knuckle joints to the inner housing, as set forth in column 10 and line 17 to column 11 line 64 (also figure 9-11), to provide a greater control of the ram and a lost motion preventer mechanism. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the needle free injection device as taught by Landau '823 with ram connected by frangible knuckle joints to the inner housing as taught by Landau '781, since such a modification would provide the needle free injection device with ram connected by frangible knuckle joints to the inner housing for providing a greater control of the ram and a lost motion preventer mechanism.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

Art Unit: 3767

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gray whose telephone number is (571) 272-7180. The examiner can normally be reached on Monday through Friday, 8:30 a.m. to 4:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PAG

PAG

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

Kevin C. Sirmons